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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/533,395
Filing Date: April 30, 2005
Appellant(s): KARREMANS, PAULUS

Sidney L. Weatherford
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/6/2009 appealing from the Office action

mailed 1/7/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,611,864	Putzolu et al.	8-2003
7,213,068	Kohli et al.	5-2007
2003/0009444	Eidler et al.	1-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-3, 6-12 and 15-18 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Kohli et al. (hereinafter Kohli)(U.S. Patent No. 7,213,068 B1) in view

of Eidler et al. (hereinafter Eidler)(U.S. Pub. No. 2003/0009444 A1).

Regarding claims 1 and 10, Kohli teaches as follows:

A method or a system for policy-based control of a communication network having a distributed architecture (a policy management system implementing a programmable policy-based approach for managing network elements in a telecommunication network, see, e.g., abstract), including at least one heterogeneous communication network (the policy manger is adapted to manage many different types of network elements, see, e.g., col. 3, lines 42-44) comprising;

Messaging between network elements (network elements perform a network-related function, see, e.g., col. 3, lines 47-48), said network elements comprising at least one policy enforcement point (PEP)(12 and 14 in figure 1), one or more policy decision points (PDPs)(policy server 8 in figure 1), which network elements provide for registering events (the policy server issues event registrations, which causes event registration to be performed at the corresponding PEPs, see, e.g., col. 8, lines 28-31);

Providing the PEP with a server capability and changing the PDPs to clients (PEP has a server capability by providing events information to the policy server in order to decide following policy actions and the policy server changing to a client, when the events are considered as the services, see, e.g., col. 8, lines 37-46);

Sending notifications (event notification) of the occurrence of events subscribing to by the PDPs (PEPs send their events directly to the policy server or policy agent that has reregistered for the events, see, e.g., col. 8, lines 39-41);

Enforcing a policy upon said events if certain conditions are met (action command being sent to the event originating PEPs, see, e.g., col. 8, lines 55-61), wherein said at least one PEP serves as a server towards at least one PDP, being a

client (device server (PEP), 18 and 20 in figure 1, collects events and distributes the

events to policy server (PDP); and

Events of the PEP which may be requested by the PDP (PEPs send their events

directly to the policy server (equivalent to applicant PDP) that has registered for the

events, see, e.g., col. 8, lines 37-46).

Kohli does not teach of establishing a service agreement between the PEP and

the PDP determining a subset of subscribed events.

Eidler teaches as follows:

Service level agreement between the server and the customer monitoring

customer system events (management server monitors components and system events

associated with a particular customer based on specific service level agreements

indicated by that customer, see, e.g., page 3, paragraph [0034]).

It would have been obvious for one of ordinary skill in the art at the time of the

invention to combine Kohli with Eidler to include the service agreement between the

server and the client in order to effectively monitor the clients based on the specific

service level agreement predetermined.

Regarding claims 2 and 11, Kohli teaches as follows:

The policies of a PEP are available to the one or more PDPs (the policy server

(PDP) register its policy events with all PEPs being managed by a policy which means

both PDP and PEP are running under the same policy, see, e.g., col. 8, lines 26-28).

Regarding claims 3 and 12, Kohli teaches as follows:

The one or more PDPs subscribe to one or more PEP policy enforcement capabilities outside the service domain of a PDP (the policy server generates an action for a remote network (outside the service domain) element through a directory server, 16 in figure 1, which maintains a domain registry used to drive PEP addresses, see, e.g., col. 8, line 66 to col. 9, line 6).

Regarding claims 6 and 15, Kohli teaches as follows:

After the occurrence of the event, said messaging is synchronous, wherein event data are sent together with the notifications from the PEP to the PDP (the specified events raised at the various PEPs are forwarded to the appropriate policy processing point as an event notification, see, e.g., col. 13, line 64 to col. 14, line 5).

Regarding claims 7 and 16, Kohli teaches all the limitations of claim except for asynchronous messaging between PEP and PDP.

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Kohli to include the asynchronous messaging in order to first select a proper PDP among multiple PDPs and then to send event data from the PEP to the selected PDP.

Regarding claims 8 and 17, Kohli teaches as follows:

A PEP registering events that a PDPs can subscribe to (the policy server issues event registrations, which causes event registration to be performed at the corresponding PEPs, see, e.g., col. 8, lines 26-31);

The PEP registering policy enforcements (policy actions) that the PDP may suggest to the PEP (action evaluator, 30 and 32 in figure 1, provides the abstraction of

the same semantic actions across a spectrum of devices, see, e.g., col. 10, lines 34-44);

The PDP (policy server) obtaining said registered events (the policy server issues event registrations, see, e.g., col. 8, lines 26-31); and

The PDP (policy server) obtaining said registered policy enforcements (policy actions)(the policy server, 8 in figure 2, and the policy agents, 8a in figure 2, are the components that process events received from the PEPs and which apply the policy rules to generate the policy actions, see, e.g., col.8, lines 47-49).

Regarding claim 9, Kohli teaches as follows:

The PDP (policy server) requesting a PEP to be notified of a specified event (the event registration information is consulted whenever an event is raised at a PEP, and the event is forwarded for delivery to any policy that has registered for the event, see, e.g., col. 13, lines 53-56);

The PDP (policy server) requesting a PEP for a possibility to enforce a policy (the policy server, 8 in figure 2, and the policy agents, 8a in figure 2, are the components that process events received from the PEPs and which apply the policy rules to generate the policy actions, see, e.g., col.8, lines 47-49);

The PEP notifying a PDP that the specified event has occurred (the specified events raised at the various PEPs are forwarded to the appropriate policy processing point as an event notification, see, e.g., col. 13, line 64 to col. 14, line 5);

The PDP suggesting to said PEP a policy enforcement appropriate for said specified event (the firing of an action may result in an action command being sent to the event originating PEPs, see, e.g., col. 8, lines 52-57); and

The PEP enforcing said policy enforcement (the policy rules request an action to be taken at one or more PEPs, see, e.g., col. 14, lines 30-35).

Regarding claim 18, Kohli teaches as follows:

Network administrators interface the policy server for run-time policy loading and unloading (see, e.g., col. 3, lines 56-58).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Kohli to include multiple policy servers as a stakeholder in order to enforce the accurate policy enforcements responding to the specified events from the PEPs.

3.   Claims 5, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohli et al. (hereinafter Kohli)(U.S. Patent No. 7,213,068 B1) in view of Eidler et al. (hereinafter Eidler)(U.S. Pub. No. 2003/0009444 A1) as applied to claims 1 and 10 above, and further in view of Putzolu (U.S. Patent No. 6,578,076 B1).

Regarding claims 5, 13 and 14, Kohli teaches as follows:

Multiple PDPs used in policy processing (policy processing responsibilities are distributed between the policy server (8 in figure 2) and multiple policy agents (8a in figure 2), see, e.g., col. 4, lines 1-2); and

Kohli in view of Eidler do not teach that a preference or priority scheme for sending the notifications to one or more of multiple PDPs or accepting a policy from a PDP to enforce the proper PEP.

Putzolu teaches as follows:

Policy-based network management applies a client-server paradigm and outsources policy decisions to a plurality of policy servers (see, e.g., col. 2, lines 40-46); and

Accept with priority scheme used to make a local decision at policy client (equivalent to applicant's PEP)(see, e.g., col. 5, lines 16-26).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify Kohli in view of Eidler to include priority scheme between multiple PDPs to select one of those and to accept a policy from the multiple PDPs, as taught by Putzolu in order to select a proper policy server and policy based on the policy and event registration information among the multiple policy servers.

(10) Response to Argument

Appellants' arguments and Examiner's responses as follows:

Appellants' argument:

The Examiner equates the Kohli reference's version of PEP to the Policy Enforcement Point described in the Applicant's invention; the Applicant firmly rejects the

comparison. At the time the Applicant's application was filed, disclosing the described

PEP and PDP functionality of the Applicant's invention, a skilled person in the art would

consider a device with "PEP" functionality to have features of a 'client' function in

relation to the PDP, which would normally provide a 'server' function. However, the

Applicant's invention switches the functions, whereby the Policy Enforcement Point

incorporates a server function and the PDP takes on a client function with regard to the

Policy Enforcement Point. Applicant has repeatedly explained that the PEP acronym in

the present invention is not the same as the PEP (Policy Enabling Point) acronym,

present in the Kohli reference.

     Examiner's response:

     The Examiner interpreted as follows:

     A server is defined as any device provides services to other device therefore the

PEP has a server capability by providing events information to the policy server in order

to decide following policy actions and the policy server changing to a client, when the

events are considered as the services.

     Also the applicant did not describe any specific functional distinctions of the PEP

with a server capability from the PEP in Kohli as well as the PDP. Kohli teaches all the

limitations of claimed functionality of both PEP and PDP.

     The PEP (Policy Enabling Point) teaches all the limitations of claimed PEP.

Therefore the Kohli's PEP (Policy Enabling Point) is equivalent to the applicant's PEP

(Policy Enforcement Point).

Claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art,'" it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781,789 (Fed. Cir. 1983).

Appellants' argument:

The Applicant respectfully submits that filtering and aggregation, cited by the Examiner, is not capable of solving conflicting policies in a hierarchical network, because of the nature of the hierarchical structure. Furthermore, Kohli does not disclose any way to solve conflicting policies other than to write a higher level policy.

Examiner's response:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., way to solve conflicting policies) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification

are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057

(Fed. Cir. 1993).

Appellants' argument:

There is no indication that the communications between the PEP and PDP are

anything but direct. So, even if the Applicant's definition of the PEP were the same as

Kohli, which it is not, there is an aggregator interposed between policy server and the

Policy Enabling Points in Kohli. Comparing the Applicant's architecture (Figure 2, see

below) there is no aggregator between the Applicant's PEP and PDP.

Examiner's response:

Kohli teaches as follows:

The PEPs typically sent their events directly to the policy server that has

registered for the events. However the aggregator is sometimes used to perform

protocol resolution on behalf of the PEPs (see, e.g., col. 8, lines 39-44).

Therefore Kohli teaches a direct communication between the PEP and PDP.

Appellants' argument:

As stated by the Examiner, the element covering the "service agreement" is not

disclosed by Kohli. The Eidler reference, which discloses a method and system for

sharing secure storage in a computer network, is cited as disclosing the Applicant's

"service agreement and the Applicant believes that the Examiner has confused the term

"service agreement" as defined in the Present Application with "Service Level

Agreement" in Eidler. The Eidler reference has been cited for disclosing establishment of a service agreement, since, as the Examiner notes, there is no disclosure of a service agreement in Kohli.

   Examiner's response:

   Kohli does not teach of establishing a service agreement between the PEP and the PDP determining a subset of subscribed events.

   Eidler teaches as follows:

   Establishing service level agreement (SLA) between a customer and a management server and the management server monitors system events (equivalent to applicant's subscribed events) associated with a particular customer based on specific service level agreement (see, e.g., page 3, paragraph [0034]). The examiner interpreted applicant's subset of subscribed events as the attributes identified by the SLA such as system performance, system availability and storage capacity.

   The SLA can specify any attributes in order to efficiently monitor the network elements based on predetermined SLA. The subset of subscribed events is more detail events associated with the subscribed events. Therefore Kohli in view of Eidler teaches the limitations of determining a subset of subscribed events.

   (11) Related Proceeding(s) Appendix

   No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/J. S. P./

Examiner, Art Unit 2454

July 13, 2010

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